***THE HON'BLE MR JUSTICE E.DHARMA RAO**

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+WRIT PETITION No.11279 of 1992

% 24.02.2005

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Sanapala Sreedharudu S/o.Late Varahalaxminarasimham
Madhavadhara Industrial Estate P.O
Visakhapatnam District and 23 others.

.... PETITIONERS

A N D

$ The Executive Officer
Simhachalam Devasthanam Visakhapatnam.
and two others.

...RESPONDENTS

! Counsel for the Petitioners: Mr. K. Raghava Rao

^ Counsel for the Respondents: Mr. M. Adinarayana Raju

< Gist:

> Head Note:

? CITATIONS:

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FOURTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 11279 of 1992

Between:

1 Sanapala Sreedharudu S/o.Late Varahalaxminarasimham
Madhavadhara Industrial Estate P.O
Visakhapatnam Dist.
2 Sanapala Suryanarayana S/o.Late Varahalaxminarasimham
Madhavadhara Industrial Estate P.O
Visakhapatnam Dist.
3 Sanapala Seetharamayya S/o.Late Varahalaxminarasimham
Madhavadhara Industrial Estate P.O
Visakhapatnam Dist.
4 Sanapala Appikonda Swamy S/o.Late Sanyasaih
Madhavadhara Industrial Estate P.O
Visakhapatnam Dist.
5 Sanapala Seethapathi S/o.Late Appikonda
Madhavadhara Industrial Estate P.O
Visakhapatnam Dist.
6 Sanapala Narasinga Rao S/o.Late Suryanarayana
Madhavadhara Industrial Estate P.O
Visakhapatnam Dist.
7 Sanapala Seetharamanjaneyulu S/o.Late Suryanarayana

Madhavadhara (41 ward) Industrial Estate P.O
Visakhapatnam Dist.

8 Sanapala Sanyasaiah S/o.Late Seethanna
Madhavadhara Industrial Estate P.O
Visakhapatnam Dist.

9 Nambala Latchamma W/o.Late Kannaiah
Madhavadhara Industrial Estate P.O
Visakhapatnam Dist.

10 Sanapala Kanna Rao S/o.Late Ramaiah
Madhavadhara Industrial Estate P.O
Visakhapatnam Dist.

11 Sanapala Satya Rao S/o.Late Ramaiah
Madhavadhara Industrial Estate P.O
Visakhapatnam Dist.

12 Sanapala Revathamma W/o.Late Ramnujaiah
Madhavadhara Industrial Estate P.O
Visakhapatnam Dist.

13 Sanapala Ramakrishna S/o.Late Ramanujaiah
Madhavadhara Industrial Estate P.O
Visakhapatnam Dist.

14 Sanapala Varadha Raju S/o.Late Ramanujaiah
Madhavadhara Industrial Estate P.O
Visakhapatnam Dist.

15 Sanapala Varshanarasimham S/o.Suryanarayana
Madhavadhara Industrial Estate P.O
Visakhapatnam Dist.

16 Sanapala Appala Swamy S/o.Late Ramanna
Madhavadhara Industrial Estate P.O
Visakhapatnam Dist.

17 Paidi Krishna Sharma S/o.Late Appanna
Madhavadhara Industrial Estate P.O
Visakhapatnam Dist.

18 Sanapala Madhusudhana Rao S/o.Late Narasimhulu.
Madhavadhara Industrial Estate P.O
Visakhapatnam Dist.

19 Sanapala Madhavaswamy S/o.Late Varahalu
Madhavadhara Industrial Estate P.O
Visakhapatnam Dist.

20 Sanapala Satyanarayana Murthy S/o.Suryanarayana
Marripalem Industrial Estate P.O
Visakhapatnam Dist.

21 Sanapala Kirthi Varaha Venkata Seetharamayya S/o.Seetharamanjaneyulu
Madhavadhara Industrial Estate P.O
Visakhapatnam Dist.

22 Sanapala Narsamma W/o.Late Varahalu
Madhavadhara Industrial Estate P.O
Visakhapatnam Dist.

23 P.Syamala Rao S/o.Late Neeladri Rao
Visakhapatnam Dist

24 S.Prabhakara Rao S/o.Suryanarayana
N.H.5,Rajeev Nagar Visakhapatnam.18
Marripalem Post Visakhapatnam.

..... PETITIONERS

AND

1 The Executive Officer
Simhachalam Devasthanam Visakhapatnam.
2 A.P.State Electricity Board Rep.by its Chairman
Vidyuth Soudha Hyderabad.
3 Assistant Executive Engineer T.L.C., Sub-Station
A.P.S.E.B. Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate order, directions or a writ particularly one in the nature of writ of Mandamus declaring that framing the issues Nos.1 and 2 by the learned District Judge, Visakhapatnam in O.P.No.48 of 1980 and findings thereon are arbitrary, illegal and without jurisdiction and further declare that the petitioners are entitled to the entire amount of Rs.2,50,000/- deposited towards compensation in respect of the trees cut and removed by the A.P. State Electricity Board, the respondents 2 and 3 on the lands in Survey Nos.294,295,298 and 290 of Adivivaram survey near Madhavadara, Visakhapatnam District and to pass such other order or orders .

(Prayer is amended as per Court order dated 24-02-2005 in WPMP No.24321 of 2004).

Counsel for the Petitioners: Mr. K. Raghava Rao

Counsel for the Respondent No.1: Mr. M. Adinarayana Raju

The Court made the following:

THE HONOURABLE SRI JUSTICE

ELIPE DHARMA RAO

* * *

WRIT PETITION NO.11279 OF 1992

O R D E R :

This writ petition is filed invoking the jurisdiction of this Court Article 226 of the Constitution of India. The petitioners 1 to 24 herein are the respondents 2 to 22 in OP.No.48 of 1980 on the file of the Court of District Judge, Visakhapatnam. The petitioners herein have filed this writ petition questioning the correctness or otherwise the findings of the District Judge, Visakhapatnam, dated 06-3-1982 passed in OP.No.48 of 1980 to the extent of apportioning the compensation deposited by the APSEB represented by its Chairman, Vidyut Soudha, Hyderabad and the Assistant Executive Engineer, TLC Sub-Station, APSEB Visakhapatnam, who are petitioners in OP.No.48 of 1980 at 3:1 ratio among the respondent no.1; namely, the Executive Officer, Simhachalam Devastanam, Simhachalam on the one hand and respondents 2 to 22 therein on the other hand and that seeking mandamus to declare that the petitioners are entitled to receive the entire amount of Rs.2,50,000/- deposited towards compensation in respect of the trees cut and removed by the Andhra Pradesh State Electricity Board, represented by its Chairman, Vidyuth Soudha, Hyderabad and its Assistant Executive Engineer, TLC

Sub-Station, APSEB Visakhapatnam, who are respondents 2 and 3 herein, on the lands in Survey No.294, 295, 298 and 290 of Adivivaram survey near Madhavadra, Visakhapatnam district.

The Petitioners submit that the learned District Judge, Visakhapatnam, on appreciation of both oral and documentary evidence placed on record, passed the judgment dated 06-03-1982 in O.P.No.48 of 1980, apportioning the compensation between R-1 on the one hand and R-2 to R-22 therein on the other hand at 3:1 ratio. So far as R-21 is concerned, as it was admitted that the costs of one Neredu tree was yet to be paid by the petitioners therein. So far as R-22 is concerned, the cost of one Sampangi tree was to be paid by the petitioner therein. According to the rates previously fixed by the Government, and according to which the petitioners had to deposit the amounts, the petitioners were directed to deposit the amounts for those two trees into the Court and R-21 and R-22 would be entitled to receive for the amounts so deposited in the ratio of 3:1.

The facts of the case are as follows:

The Zamindar of Vijayanagaram granted about 1500 acres of land to the ancestors of the petitioners in 1795 A.C. During the British regime a settlement had been effected and Inam title deed was granted for 1426 acres in 1863 by the Inam Commissioner - Mr. J.N. Taylor. Again in 1903, the entire land was surveyed at the instance of the-then British Government by Mr. S.W. Gilman, Special agent to the Government. The original grant called “Madhavadhara Mukhasa” was divided by separating clear land in the name of ‘Madhavadhara’ and the hill and hill slopes

were separated and called ‘Adivivaram’ village. The land situated in Survey Nos.294, 295, 298 and 290 are part of Adivivaram village. The said lands had been in uninterrupted possession of the predecessors-in-interest of the petitioners and thereafter they have been in the possession of the petitioners. It is stated that during the period of their ancestors, they raised the fruit bearing trees and during the period of their grand fathers and fathers, they removed the old trees and planted fresh trees in their place. It is stated that they have been enjoying exclusively the usufruct of the said trees existing in the said land continuously. The village being a separate ‘Mokhasa’ forming part of “Madhavadhara Mokasa” evenafter passing of the Andhra Pradesh (Andhra Area) Estate (Abolition and Conversion into Ryotwari) Act, 1948 settlement operations were not taken up as left out from the main Vizianagaram Zamindari Estate, though they were entitled to Ryotwari pattas in respect of the said land. In 1929, Simhachalam Devasthanam filed suits; namely, O.S.Nos.302, 303 and 308 of 1929 claiming the rights over the lands and the said suits were ultimately dismissed holding that the petitioners are having the title over the said lands. In 1978, the second respondent Andhra Pradesh Electricity Board through the third respondent laid Transmission line of high tension from Simhachalam Sub-Station to Gajuvaka Sub-Station without touching Visakhapatnam City and the said Transmission line has to pass through the lands of Adivivaram village belonging to 12 members of Sanapala family. For the said purpose, the valuable fruit bearing trees belonging to the petitioners were cut away. Therefore, they claimed compensation for the said trees, which were valued by the respondents 2 and 3 at Rs.2,50,000/-. While the petitioners are claiming the entire compensation, the first respondent-Devasthanam also claimed the same. The said dispute was agitated

before the District Court, Visakhapatnam in O.P.No.48 of 1980 under the provisions of Section 16(4) of the Telegraph Act, 1885 read with section 42 of the Electricity Supply Act, 1948. As some of the original claimants died, their legal representatives were also added in the claim-petition. It is also submitted that the ancestors of the petitioners as well as the petitioners have been being in continuous and uninterrupted possession of the lands in question subject to payment of Rs.44/- per year as Kattubadi, which is being paid regularly to the Devasthanam till the estate was taken over and that they having planted and protected the fruit bearing trees, the first respondent-Devasthanam has no right over the trees or the fruits. It is further submitted that the learned District Judge who enquired into O.P.No.48 of 1980 did not give proper effect to the extracts made in the Inam fair register and Inam statement, which were marked under Ex.B7 and Ex.B8. Accordingly, the learned District Judge misconstrued the effect of the oral and documentary evidence, which establishes that the petitioners are in possession and enjoyment over the lands by raising gardens and are having exclusive rights over the trees. While surprisingly the learned District Judge held that out of the entire compensation of Rs.2,50,000/- deposited by the Andhra Pradesh State Electricity Board, the Devasthanam is entitled to 3/4th and the petitioners are entitled to 1/4th only which is erroneous. It is further submitted that against the said order dated 06-3-1982 passed in OP.No.48 of 1980 on the file of the Court of District Judge, Visakhapatnam, they filed C.R.P.No.1269 of 1982 under Section 115 of the Civil Procedure Code to revise the said order dated 06-03-1982 passed in O.P.No.48 of 1980. The Revision Petition was disposed of by a Division Bench of this Court by an order dated 05-06-1989

holding that the finality having been attached to the award of the District Judge, no revision lies to the High Court against the award passed by the District Judge, Visakhapatnam. Even the request of the learned counsel for the petitioners was that they may be permitted to convert the revision petition into one under Article 227 of the Constitution of India, the same rejected observing that it is open to the petitioners to pursue such other remedies as are available to them in law. Hence, this writ petition.

In the counter-affidavit filed by the first respondent-Devasthanam, the main objection was taken on the ground that the writ petition is not maintainable in law. It is stated that in view of filing C.R.P.No.1216 of 1982 against the order dated 06-3-1982 passed in O.P.No.48 of 1980 on the file of the Court of District Judge, Visakhapatnam, the present writ petition is not maintainable. It is further stated the main latches in filing the writ petition is the inordinate delay, which has not been explained in the writ petition. It is further stated that after careful consideration of all the facts, oral and documentary evidence placed on record and after considering the relevant provisions of the Act, the learned District Judge has rightly held that the first respondent-Devasthanam is the owner of the lands and that the respondents 2 to 22 are not the owners of the lands and the trees thereon. The order dated 06-3-1982 passed by the learned District Judge, Visakhapatnam in OP.No.48 of 1980 goes to establish that the petitioners therein are in possession and enjoyment over the lands by raising gardens and are having exclusive rights over the trees and the same is legal and sustainable in law. It is submitted that the jurisdiction under Article 226 is

supervisory in nature and does not sit or act as an appellate authority over the actions of the subordinate authorities or tribunals. It is further submitted that the Estate Abolition Tribunal by its order dated 31-07-1968 in T.A.No.15 of 1967 held that Adivivaram village is not an Inam Estate within the meaning of Section 2(7) of the Estate Abolition Act. Thereafter the Special Deputy Thasildar Inams, Visakhpatnam has taken up suo motu the enquiry under Section 3(3) of the Inams Abolition Act, 1956 in respect of the lands covered by T.D.No.1173 belonging to the Devasthanam. The Inams Deputy Thasildar after enquiry by his order dated 19-08-1977 held that the lands covered by Form No.1 notice are Inams lands, in an Inam village namely, Adivivaram and except the lands shown in the notice as Poramboke and waste lands, the rest of the lands were held by the institutions i.e., Devasthanam, S.V.L.N. Swamy varu. Subsequently, as per the order of the R.D.O. Visakhapatnam dated 31-08-1978 in A.I.A. No.3 of 1977, the Mandal Revenue Officer, Visakhapatnam made another enquiry under Section 3(3) of the Act and declared by his order dated 25-05-1989 in A.I.A.C.No.8 of 1977 that about an extent of Ac.2600 in Survey No.275 of Adivivaram and an extent of Ac.705.21 cents in other Survey numbers of the said village were cultivable and cultivated on the crucial date, as the property of the S.V.L.N.S. Devasthanam. Subsequently, the Mandal Revenue Officer, Visakhapatnam made an enquiry under section 7 (1) read with Section 4 of the Inams Abolition Act and passed order dated 18-5-1996 in AIAC.No.1 of 1996 and issued ryothwari patta in favour of Devasthanam for an extent of Acs:3,312-45 cents. Similarly, the Mandal Revenue Officer made a separate enquiry under Section 7 (1) read with Section 4 of the Inams Abolition Act

granting ryothwari patta in respect of other lands. The Mandal Revenue Officer, Visakhapatnam by his order dated 14-8-1996 in AIAC.No.2 of 1996 granted ryotwari patta for an extent of Acs:1036-03 cents in the name of SVLNS Devasthanam, Simhachalam. By virtue of the above proceedings, ryothwari pattas were granted including the lands covered by survey nos. 294, 295, 298 and 290 of Adivivaram village. The petitioners who filed the present writ petition never made an attempt to obtain ryotwari pattas either under the provisions of Estate Abolition Act or Inams Abolition Act. Therefore, the proceedings under section 3 (3) and Section 7(1) of the Inams Abolition Act become final and are binding upon the petitioners. So in view of the above, the land covered under Survey Nos.294, 295, 298 and 290 form part of Adivivaram village and have nothing to do with the Madhavadhara village. Therefore, the respondents requested for dismissal of the writ petition.

Pursuant to the counter-affidavit filed by the first respondent, the petitioners filed reply-affidavit explaining the reasons for the delay in filing the writ petition. Further in respect of the narration made in the counter-affidavit filed by the first respondent with regard to the Adivivaram village, it is stated that the said facts were not placed for consideration before the learned District Judge. It is further stated that the order dated 14-08-1996 in AIAC.No.2 of 1996 is still sub-judice as the appeal filed against the said orders is pending before the Revenue Divisional Officer, Visakhapatnam.

An additional counter-affidavit has been filed by the first respondent-Devasthanam to the reply-affidavit stating that the present writ petition is not maintainable after a gap of 24 years that too at this belated stage. It is submitted that

it is incorrect to contend that the learned District Judge proceeded to consider the issues about the title, which is far beyond the scope of enquiry under section 16 (4) of the Telegraphic Act, 1885 read with Section 42 of the Electricity Supply Act, 1948. The learned District Judge has got powers to decide the issue of title incidentally raised by the petitioners but it is not open to the petitioners to raise the said point for the first time at this belated stage, as the petitioners have participated and claimed title over the land before the District Judge in OP.No.48 of 1980 and cannot approbate and reprobate. The respondents further submitted that it is incorrect to state that the apportionment made by the learned District Judge in the ratio of 3:1 is illegal and untenable.

On the basis of the above facts and circumstances of the case, it is pertinent to note that this Court under Article 226 of the Constitution of India while dealing with this writ petition cannot go into the title over the suit schedule property. The petitioners being the owners of the suit schedule property raised trees and therefore, the learned District Judge apportioned the compensation deposited by the respondents 2 and 3. The learned District Judge has decided the matter based on the facts and circumstances and the material placed on record and passed exhaustive order in O.P.No.48 of 1980 dated 06-03-1982. Against that order a revision was filed before this Court and it is pertinent to note that in the order passed by the Division Bench of this Court in the revision petition filed by the petitioners under Section 115 of the Civil Procedure Code, it was observed :

> " *There being a dispute as to the apportionment of the amount of compensation, the State Electricity Board made a reference to the learned District Judge, Visakhapatnam, under Section 1(4) of the*

Telegraph Act, 1885. The leaned District Judge apportioned the compensation between the Devasthanam and the petitioners in the ratio of 3:1. Aggrieved by the order of the learned District Judge, the above revision petition was filed."

After consideration of Section 16 of the Act, it was further observed by the Division Bench of this Court as under:

"*it may be noted that a dispute can be raised either as to the sufficiency of the compensation or as to the apportionment of the compensation and the forum is the District Judge having jurisdiction over the lands utilized by the Electricity Board. Under Section 16(5) of the Act, every determination of a dispute by a District Judge either under sub-section (3) or sub-section (4) is made final. No right of appeal or Revision is provided under the Act against the award of the District Judge, unlike section 54 of the Land Acquisition Act. Finality having been attached to the award of the District Judge, no revision petition lies to this Court against the award. The revision petition is therefore, misconceived*.

Sri N.V. Ranganadham, learned counsel for the petitioners however, submits that the petitioners may be permitted to convert the Revision Petition into one under Article 227 of the Constitution of India. We do not consider it expedient to grant such permission at this distance of time.

In the result, the revision petition stands dismissed. We, however, made no order as to costs.

It is, however, open to the petitioners to pursue such other remedies as are available to them in law."

It is pertinent to consider Section 16 of the Indian Telegraph Act, 1885 which contemplates as under:

"Exercise of powers conferred by section 10, and disputes as to compensation, in case of property other than that of a local authority."

We are concerned with Sub-section 3 of Section 16 of the Act, which reads as under:

" If any dispute arises concerning the sufficiency of the compensation to be paid under section 10, clause (d), it shall, on application for that purpose by either of the disputing parties to be District Judge within whose jurisdiction the property is situate, be

determined by him."

Therefore, Sub-section 3 of Section 16 of the Act contemplates that if any dispute arises concerning the sufficiency of the compensation to be paid under section 10, clause (d), it shall, on application for that purpose by either of the disputing parties to be district Judge within whose jurisdiction the property is situate, be determined by him.

As seen from the material on record, there is no application for that purpose by either of the contesting parties to the District Judge under whose jurisdiction the property is situated.

The facts and circumstances of the case goes to show that there is no application filed by the petitioners disputing the compensation to be paid under section 10, clause (d) of the Act by the respondents 2 and 3.

On the other hand the respondents calculated the compensation and deposited the same before the District Judge and after such deposit, the District Judge has issued notices to the petitioners. Thereafter the petitioners have entered their appearance and contested the matter by adducing oral and documentary evidence with regard to the title and claimed the compensation deposited by the respondents 2 and 3.

At this juncture, let us have a glance of sub-section 4 of Section 16 of the Act, which reads as under:

Section 16 of the Indian Telegraph Act, 1885 : Exercise of Powers conferred by

Section 10, and disputes as to compensation, in case of property other than that of a local authority.

> Sub-section 4 of Section 16 of the Act : " *If any dispute arises as to the persons entitled to receive compensation, or as to the proportions in which the persons interested are entitled to share in it, the telegraph authority may pay into the Court of the District Judge such amount as he deems sufficient or, where all the disputing parties have in writing admitted the amount tendered to be sufficient or the amount has been determined under sub-section (3), that amount; and the District Judge, after giving notice to the parties and hearing such of them as desire to be heard, shall determine the persons entitled to receive the compensation or, as the case may be, the proportions in which the persons interested are entitled to share in it.*"

As seen from the facts and circumstances of the case, there arises no dispute as to the persons entitled to receive the compensation or as to the proportions to which the persons interested are entitled to have share in it.

After going through the facts and circumstances of the case, it appears that this case has a long chequered history and there is a dispute with regard to the entitlement of receiving the compensation and as to the proportions between the first respondent-Devasthanam and the petitioners. Therefore, the respondents deposited a sum of Rs.2,50,000/- determined by them into the District Court. Thereafter, the District Judge has issued notices to the parties concerned, who entered their appearance and adduced evidence. The learned District Judge considered the material on record and determined the compensation and apportioned the compensation among the first respondent-Devasthanam and the petitioners at the ratio of 3:1.

Here, the lacunae is sub-section 4 of Section 16 of the Act, which contemplates deposit of compensation by the respondents 2 and 3 and after such deposit, it is for the District Judge to give notices to the persons who are entitled to receive the compensation for hearing and to determine the entitlement of the compensation by the contesting parties.

Admittedly the Andhra Pradesh State Electricity Board and the Assistant Executive Engineer, APSEB Visakhapatnam, who are respondents 2 and 3 have no obligation to file a petition before the District Judge by way of reference. Anyhow this reference was entertained by the District Judge and issued notices and after hearing disposed of the same.

Sub-section 5 of section 16 of the Act :

Sub-Section 5 of Section 16 of the Act, contemplates that:

> E*very determination of a dispute by a District Judge under sub-section (3), or sub-section (4) shall be final*.

Therefore, in view of the above, no appeal shall lie under this sub-section. But there is an exception to this sub-section, which provides that noting in this sub-section shall affect the right of any person to recover by suit the whole or any part of any compensation paid by the telegraph authority, from the person who has received the same. According to this exception, if any person's right is affected in payment of compensation by the telegraphic department, the affected party can recover the said amount by filing a suit, the whole or any part of compensation paid by the

telegraphic department. Suffice it to say that if any compensation is paid to a person other than the person who is entitled to receive the compensation, the person who is entitled to receive the same can recover the same by way of filing a suit. But, we are not concerned with the said issue to be decided in this writ petition.

As seen from the prayer, it is clear that this writ petition is not filed to set aside the judgment passed by the District Judge, Visakhapatnam in O.P.No.48 of 1980, albeit, on the other hand the petitioners are seeking for declaration that they are entitled to Rs.2,50,000/- which was deposited by the respondents 2 and 3 towards compensation in respect of the trees.

After hearing the learned counsel for either side, as seen from the facts and circumstances of the case, it appears that the learned District Judge in O.P.No.48 of 1980 had clearly held that Devastanam is the owner of the suit schedule property. When there is no grant in favour of writ petitioners, who are no other than tenants, cannot have a right to dispute title over the suit schedule property of Devastanam. Therefore, this writ petition is not maintainable firstly on the ground that this court under Article 226 of the Constitution of India cannot decide and adjudicate the disputed question of title over the suit schedule property; secondly, the writ petition is not filed to set aside the order passed by the District Judge, Visakhapatnam in O.P.No.48 of 1980.

It is elementary that unless and until the order passed by the learned District Judge is not set aside, the question of declaring the entitlement of the petitioners to receive the entire compensation of Rs.2,50,000/- does not arise. Taking into consideration the facts and circumstances of the case and on perusal of the order

passed by the District Judge in OP.No.48 of 1980 as well as the order passed by the Division Bench of this Court in CRP.No.1216 of 1982, which was filed against the order passed by the District Judge in O.P.No.48 of 1980 and after going through the provisions of Section 16 of the Act, the order passed by the learned District Judge has become final in view of Sub-section 5 of section 16 of the Act, as the right of entitlement to receive compensation, which was deposited by the respondents 2 and 3 depends on recording the evidence and consideration of both oral and documentary evidence. Further it is an exception to the general rule that if the compensation is wrongly paid to a person who is not entitled to receive it, the person whose right was extinguished by virtue of wrong payment of the compensation to wrong person, shall recover the same by filing a suit, the whole or part of the compensation paid by the respondents 2 and 3 from the person, who received the same. Therefore, I see no irregularity or infirmity committed by the learned District Judge in passing the order dated 06-03-1982 in O.P.No.48 of 1980. The writ petition fails and is liable to be dismissed.

In the result, the writ petition is accordingly dismissed. No costs.

FEBRUARY 24th, 2005. ----------

ELIPE DHARMA RAO , J.

* **N.B**. **L.R. COPY TO BE MARKED**.

B/o. ghn + IsL.

To

One fair copy to the Hon'ble Sri Justice Elipe Dharma Rao, Judge, High Court of AP Hyderabad (for his Lordship's kind perusal).

1 The Executive Officer
Simhachalam Devasthanam Visakhapatnam.

2 A.P.State Electricity Board Rep.by its Chairman
Vidyuth Soudha Hyderabad.

3 Assistant Executive Engineer T.L.C., Sub-Station
A.P.S.E.B. Visakhapatnam.

4 Two CD copies.

5 8 (eight) LR copies.

6 The Under Secretary, Union of India, Ministry of Labour, Justice &

Company Affairs, New Delhi.

7 The Secretary, A.P. Advocates' Association, Library, High Court of Andhra Pradesh, Hyderabad.